IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

CRP.No. 87 of 2007()

AGAINST THE ORDER DATED 09/01/2007 IN IA 5522/2006 IN OS.8/2005 of PRL.M.C.KOZHIKODE-I

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REVN. PETITIONER: PETITIONER/PLAINTIFFS

P.K.RAGHUNATH AGED 40 YEARS,
S/O.LATE M.BALAKRISHNAN NAIR,
M/S.GARGI CINEMA, G, 6 VEGA APARTMENTS,
CHULLIYODE ROAD, NEDUNGATTOR AMSOM,
DESOM OF KOZHIKODE TALUK.

BY ADV. SMT.P.K.RADHIKA

RESPONDENTS: PETITIONER/DEFENDANT

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1. M.A.PANJALY, AGED 66 YEARS,
W/O.M.A.UNNERIKUTTY,

2. JALAJA PRAKASH, AGED 51 YEARS,
D/O.M.A.UNNERIKUTTY.

3. M.A.SISHAN, AGED 49 YEARS,
S/O.M.A.UNNERIKUTTY.

4. SHEELA JAGANGIR, AGED 46 YEARS,
D/O.M.A.UNNERIKUTTY, AND

5. M.A.SAJEEV, AGED 45 YEARS,
S/O.N.M.A.UNNERIKUTTY.

BY ADV. SRI.R.SUDHISH
SRI.P.P.BALAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.258/07 IN C.R.P.NO: 87 OF 2007

DISMISSED:

14.6.2007 SD/- M.N.KRISHNAN, JUDGE

jj /TRUE COPY/

P.A.TO JUDGE

M.N.KRISHNAN, J.

C.R.P.No. 87 OF 2007 A

Dated this the 14th June, 2007.

O R D E R

This revision petition is filed seeking to quash the order in I.A.5522/06 in O.S.8/05. The Managing Partner of a firm died and a petition was filed to implead his legal representatives. The court below allowed the application and permitted the petitioners to proceed with the suit. It is against that decision the revision has been preferred by the defendant. According to the defendant, on the death of the Managing Partner the partnership firm will get automatically dissolved and therefore, there cannot be any continuation of the suit by the legal representatives. On the other hand, learned counsel appearing for the impleaded parties submitted that there is partnership agreement entered into between the partners and as per clause 10 of the partnership deed there is a specific provision that the partnership firm shall not get dissolved and the legal representatives of the deceased partner is entitled to be admitted to the partnership firm. Learned counsel for the revision petitioner submits that there was no mention about any partnership deed and no document was produced before the court below and therefore she is not in a position to answer those points. A perusal of the order also does not

reveal regarding the production of any partnership agreement therein. So, the only course left open for this Court is to set aside the order and direct the Principal Munsiff-I, Kozhikode to consider the whole matter afresh after permitting both parties to produce documents or adduce evidence in support of their respective contentions. C.R.P is disposed of accordingly. The parties are directed to appear before the trial court on 16.7.2007.

M.N.KRISHNAN
Judge

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